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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,525	03/17/2004	Dale Fedewa	44434.0300	5506

20322 7590 09/15/2005

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EXAMINER

EPPS, TODD MICHAEL

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/803,525	Applicant(s) FEDEWA, DALE	
	Examiner Todd M. Epps	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 12-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/17/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: <u>8/30/05</u> |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

[Handwritten signature]

DETAILED ACTION

This is the first Office Action for serial number 10/803,525, Easy Slide Conduit System, filed on March 17, 2004.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-11, drawn to apparatus, classified in class 248, subclass 56.
- II. Claims 12-18, drawn to methods, classified in class 138, subclass 89.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, and II are related as apparatus and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the apparatus as claimed can be practiced with another materially different apparatus or (2) the apparatus as claimed can be used in a materially different process of using that apparatus (MPEP § 806.05(h)). In the instant case, ^{the apparatus could be} ~~it can be~~ used as cable holder.

During a telephone conversation with Robert Iussa on 8/30/05 a provisional election was made without traverse to prosecute the invention of group I, claims 1-11. Affirmation of this election must be made by applicant in replying to this Office action. Claims 12-18 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-8, and 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,971,329 to Hickey. Hickey discloses at least one channel support member (39), at least one opening (49a), and at least one retaining member (50a) near the opening (49a); wherein the retaining member comprises a clip member (50a); the retaining member comprises an element having a residual pattern formed by cutting the opening (fig. 2); at least one aperture (108) in the channel support member (39); at least one screw hole (59) contained in the channel support member (39); wherein the channel support member comprises a "c" shaped configuration (fig. 2); wherein the openings (49a-49f) are spaced apart equidistantly from one another (fig. 2), the channel support member is comprised of at least a metal, and the retaining member is comprised of at least one of a spring metal.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 5, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over '329 patent to Hickey in view of U.S. Patent No. 5,615,850 to Cloninger. Hickey fails to disclose a support lip extending from a portion of a perimeter of the opening in the channel support member. Attention is directed to Cloninger reference, which discloses a support lip extending from a portion of a perimeter of the opening in the channel support member. Accordingly, it would have been obvious to one ordinary skill in the art at the time the invention was made to have a channel support member of Hickey with a channel support member with a support lip extending taught by Cloninger wherein doing so would provide thereof better alignment and support for the pipes / cables.

Regarding claim 9, Hickey discloses six openings, instead of five, grouped together that are spaced apart equidistantly from one another. However, Hickey fails to disclose the openings being spaced approximately one foot apart. Accordingly, it would have been obvious to one ordinary skill in the art at the time the invention was made to have openings at approximately one foot apart in order to provide convenience for pipe fitting.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,927,041 to Sedlmeier

U.S. Patent No. 5,738,147 to Mestres

U.S. Patent No. 4,542,871 to Fortsch

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U.S. Patent No. 4,488,844 to Baubles

U.S. Patent No. 2,661,483 to Tortorice

The above references disclose a structure similar to the applicant's invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd M. Epps whose telephone number is 571-272-8282. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Todd M. Epps
Patent Examiner
Art Unit 3632
September 1, 2005

 9/16/05
ROBERT P. OLSZEWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600